

HB 829

HB 829, introduced by Llew Jones, provides a "MEANS TO RATIFY THE IMPENDING WATER RIGHTS COMPACT AMONG THE BLACKFEET TRIBE, THE STATE OF MONTANA, AND THE UNITED STATES; CREATING A BLACKFEET TRIBE WATER RIGHTS COMPACT MITIGATION ACCOUNT; CREATING A BLACKFEET TRIBE WATER RIGHTS COMPACT INFRASTRUCTURE ACCOUNT; AUTHORIZING THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION TO ADMINISTER THE ACCOUNTS; PROVIDING A FUND TRANSFER; APPROPRIATING FUNDS FOR THE MITIGATION ACCOUNT; PROVIDING FOR CONTINGENT VOIDNESS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BACKGROUND

- The Montana legislature established the Montana Reserved Water Rights Compact Commission in 1979 to help integrate reserved water rights into the state adjudication process. MCA 2-15-213. The Commission is charged with negotiating water rights "compacts for the equitable division and apportionment of waters between the state and its people and the several Indian tribes claiming reserved water rights within the state." MCA 85-2-701(2) and 702.
- Once the Commission and the Tribe have agreed to a compact settlement, the Montana Legislature must ratify the compact. Following State and Tribal approval, a federal bill is then drafted for submission to Congress. MCA 85-2-702. Ultimately, the compact must be approved by the Montana Water Court.

BLACKFEET NEGOTIATION STATUS

The Blackfeet Tribe and the Compact Commission have been working on negotiating a water rights settlement for years and in 2007 the parties are near final agreement. The settlement will determine all the reserved water rights of the Tribe as well as provide legal certainty to Indian and non-Indian water rights holders (irrigation, stock and domestic) in the following Montana Water Court basins:

- Basin 41M – Birch Creek
- Basin 41M – Badger Creek and Two Medicine River Drainages
- Basin 41L – Cut Bank Creek Drainages
- Basin 40F – Milk River and Tributaries
- Basin 40T – St. Mary River Drainage

Implementation of the Blackfeet Tribe-Montana compact will require state and federal cost-sharing in amounts to be agreed upon in future negotiations, for renovation and upgrading of infrastructure on the reservation, which may include but is not limited to Four Horns Reservoir.

The compact will also provide for future administration of these water rights.

SUMMARY OF HB 829

HB 829 is the first step in the process of introducing a Blackfeet water compact to the 2007 Montana Legislature. The bill will be void unless a Blackfeet Tribe-Montana compact is amended into the act in the Montana Senate. HB 829 currently includes the following provisions:

1. Sets up special revenue Blackfeet Tribe water rights compact mitigation account funding mitigation for water rights holders under state law in the amount of \$12 million:

- To be transferred from the state general fund;
- Appropriated and transferred to Department of Natural Resources and Conservation for biennium ending June 30, 2009; OTO
- To be administered by the Department of Natural Resources and Conservation;
- To be disbursed only if a compact has been ratified by the legislature, Congress and the Blackfeet Tribe.

Account may be used for:

- grants or matching funds to water rights holders under state law for water from Birch Creek, Badger Creek, Cut Bank Creek, Two Medicine River and the portion of the Milk River within the exterior boundaries of the Blackfeet Indian Reservation;
- enhancing water availability;
- \$10 million of fund must be made available to the water right holders under state law on Birch Creek.

2. Sets up Blackfeet Tribe water rights compact infrastructure state special revenue fund account administered by the Department of Natural Resources and Conservation.

- To be disbursed only if a compact has been ratified by the legislature, Congress and the Blackfeet Tribe;
- To be used only for water-related infrastructure projects on the Blackfeet Indian Reservation.

3. Provides for adoption of administrative rules to implement and administer these accounts, and:

- The Department of Natural Resources and Conservation shall consult with affected stakeholders in proposing the rules, including Pondera and Glacier County Conservation Districts;
- Mitigation of impacts on Birch Creek state water right holders shall have priority.

4. If a water compact settlement between the Blackfeet Tribe, the State of Montana and the United States is not inserted into HB 829, then this act is void.